

UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF TENNESSEE
AT KNOXVILLE

UNITED STATES OF AMERICA,)	
)	
Plaintiff,)	
)	
v.)	No. 3:94-CR-117
)	(VARLAN/GUYTON)
FREDERICK O. BLACK,)	
)	
Defendant.)	

MEMORANDUM AND ORDER

This case is before the Court on defense counsel's Motion to Withdraw as Counsel of Record [Doc. 102], referred [Doc. 103] to this Court on October 24, 2008. See 28 U.S.C. § 636(b). Defense Counsel Donny Young seeks to withdraw from representation of the defendant because he has withdrawn from representing the defendant in case number 3:07-CR-61. Mr. Young was initially appointed [Doc. 85]¹ to represent the defendant on May 25, 2007, with regard to revocation proceedings on his supervised release. The defendant was subsequently charged in case number 3:07-CR-61, and Mr. Young was also appointed [Doc. 2, no. 3:07-CR-61] to represent him in that case. Mr. Young subsequently moved to withdraw [Doc. 15, no. 3:07-CR-61] from the second case, contending that the defendant had informed him that he wished to obtain other counsel. After holding a hearing on the motion, this Court found [Doc. 18, no. 3:07-CR-61] that the relationship between the defendant and Mr. Young was irretrievably broken. Mr. Young was permitted to withdraw and new counsel was appointed.

¹The Court notes that defense counsel was appointed by United States Magistrate Judge C. Clifford Shirley. This case was subsequently reassigned [Doc. 104] to the undersigned.

For the same reason expressed in this Court's order in case number 3:07-CR-61, the Court finds that good cause exists to grant defense counsel's Motion to Withdraw as Counsel of Record [**Doc. 102**], the same is **GRANTED**, and Mr. Young is relieved as counsel for the defendant. See Wilson v. Mintzes, 761 F.2d 275, 280 (6th Cir. 1985) (holding that a defendant seeking to substitute counsel must show good cause). The Court recognizes the need for the defendant to be continuously represented by conflict-free counsel. Attorney Bruce E. Poston, who presently represents the defendant in case number 3:07-CR-61, has agreed to accept representation of the defendant in this case. The Court therefore and hereby **SUBSTITUTES AND APPOINTS** Mr. Poston under the Civil Justice Act (CJA) as counsel of record for the defendant.

The Court would note that the defendant has filed pro se motions in this case even though he was represented by Mr. Young. Local Rule 83.4(c) states in pertinent part as follows:

Whenever a party has appeared by attorney, that party may not thereafter appear or act in his or her own behalf in the action or proceeding, unless an order of substitution shall first have been made by the court, after notice by the party to the attorney and to the opposing party.

The Court requests that Mr. Poston review the pro se matters and seek leave to refile them on the defendant's behalf if he deems that they are meritorious.

IT IS SO ORDERED.

ENTER:

s/ H. Bruce Guyton
United States Magistrate Judge